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Working Group on Rules of Procedure and Evidence
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Report of the Working Group

Chapter 13
Compensation to an arrested or convicted person

Rule 8.13
Request for compensation

1. Anyone seeking compensation on any of the grounds indicated in article 85 shall submit a request, in writing, to the Presidency, which shall designate a Chamber composed of three judges to consider the request. These judges shall not have participated in any earlier judgement of the Court regarding the person making the request.

2. The request for compensation shall be submitted not later than six months from the date the person making the request was notified of the decision of the Court concerning:

(a) The unlawfulness of the arrest or detention under article 85, paragraph 1;

(b) The reversal of the conviction under article 85, paragraph 2;

(c) The existence of a grave and manifest miscarriage of justice under article 85, paragraph 3.

3. The request shall contain the grounds and the amount of compensation requested.

4. The person requesting compensation shall be entitled to legal assistance.

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Rule 8.14
Procedure for seeking compensation

1. A request for compensation and any other written observation by the person filing the request shall be transmitted to the Prosecutor, who shall have an opportunity to respond in writing. Any observations by the Prosecutor shall be notified to the person filing the request.

2. The Chamber designated under rule 8.13, sub-rule 1, may either hold a hearing or determine the matter on the basis of the request and any written observations by the Prosecutor and the person filing the request. A hearing shall be held if the Prosecutor or the person seeking compensation so requests.

3. The decision shall be taken by the majority of the judges. The decision shall be notified to the Prosecutor and to the person filing the request.

Rule 8.15
Amount of compensation

In establishing the amount of any compensation in conformity with article 85, paragraph 3, the Chamber designated under rule 8.13, sub-rule 1, shall take into consideration the consequences of the grave and manifest miscarriage of justice on the personal, family, social and professional situation of the person filing the request.